

facility meets any of the conditions specified in § 488.454(c).

§ 488.417 Denial of payment for all new admissions.

(a) *Optional denial of payment.* Except as specified in paragraph (b) of this section, CMS or the State may deny payment for all new admissions when a facility is not in substantial compliance with the requirements, as defined in § 488.401, as follows:

(1) *Medicare facilities.* In the case of Medicare facilities, CMS may deny payment to the facility.

(2) *Medicaid facilities.* In the case of Medicaid facilities—

(i) The State may deny payment to the facility; and

(ii) CMS may deny payment to the State for all new Medicaid admissions to the facility.

(b) *Required denial of payment.* CMS does or the State must deny payment for all new admissions when—

(1) The facility is not in substantial compliance, as defined in § 488.401, 3 months after the last day of the survey identifying the noncompliance; or

(2) The State survey agency has cited a facility with substandard quality of care on the last three consecutive standard surveys.

(c) *Resumption of payments: Repeated instances of substandard quality of care.* When a facility has repeated instances of substandard quality of care, payments to the facility or, under Medicaid, CMS payments to the State on behalf of the facility, resume on the date that—

(1) The facility achieves substantial compliance as indicated by a revisit or written credible evidence acceptable to CMS (for all facilities except non-State operated NFs against which CMS is imposing no remedies) or the State (for non-State operated NFs against which CMS is imposing no remedies); and

(2) CMS (for all facilities except non-State operated NFs against which CMS is imposing no remedies) or the State (for non-State operated NFs against which CMS is imposing no remedies) believes that the facility is capable of remaining in substantial compliance.

(d) *Resumption of payments: No repeated instances of substandard quality of care.* When a facility does not have re-

peated instances of substandard quality of care, payments to the facility or, under Medicaid, CMS payments to the State on behalf of the facility, resume prospectively on the date that the facility achieves substantial compliance, as indicated by a revisit or written credible evidence acceptable to CMS (under Medicare) or the State (under Medicaid).

(e) *Restriction.* No payments to a facility or, under Medicaid, CMS payments to the State on behalf of the facility, are made for the period between the date that the—

(1) Denial of payment remedy is imposed; and

(2) Facility achieves substantial compliance, as determined by CMS or the State.

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§ 488.418 Secretarial authority to deny all payments.

(a) *CMS option to deny all payment.* If a facility has not met a requirement, in addition to the authority to deny payment for all new admissions as specified in § 488.417, CMS may deny any further payment for all Medicare residents in the facility and to the State for all Medicaid residents in the facility.

(b) *Prospective resumption of payment.* Except as provided in paragraphs (d) and (e) of this section, if the facility achieves substantial compliance, CMS resumes payment prospectively from the date that it verifies as the date that the facility achieved substantial compliance.

(c) *Restriction on payment after denial of payment is imposed.* If payment to the facility or to the State resumes after denial of payment for all residents, no payment is made for the period between the date that—

(1) Denial of payment was imposed; and

(2) CMS verifies as the date that the facility achieved substantial compliance.

(d) *Retroactive resumption of payment.* Except when a facility has repeated instances of substandard quality of care, as specified in paragraph (e) of this section, when CMS or the State finds that